

Decision 02-08-056 August 22, 2002

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of the County of Kern for an Order authorizing construction of a crossing at separated grades between Seventh Standard Road and the tracks of the Southern Pacific Transportation Company, referred to as the "Seventh Standard Road Overhead" (PUC No. B-305.9A).

Application 97-02-007  
(Filed February 5, 1997;  
Petition for Modification  
Filed March 11, 2002)

**ORDER MODIFYING DECISION 97-03-044**

**Summary**

County of Kern (County) requests authority to modify Decision (D.) 97-03-044, whereby the Commission granted authority to the County to construct Seventh Standard Road Overhead at separated grades over the tracks of Union Pacific Railroad Company's (UP) Fresno-Bakersfield Main Line, formerly owned by Southern Pacific Transportation Company (SPT), near Bakersfield, Kern County.

**Discussion**

By D.97-03-044, dated March 18, 1997, in Application (A.) 97-02-007, County, in cooperation with Greater Bakersfield Separation of Grade District (District), was authorized to construct Seventh Standard Road Overpass at separated grades over the tracks of UP's Fresno-Bakersfield Main Line, formerly owned by SPT, in Kern County. Upon the completion of the overpass and its opening to vehicular traffic, the existing Seventh Standard Road at-grade crossing was ordered closed and physically removed.

County filed Petition for Modification to D.97-03-044 on March 11, 2002, to request the following:

- Modify Ordering Paragraph 3 of D.97-03-044 by substituting the previously authorized construction period vertical clearance of 21 feet 6 inches with a revised construction period vertical clearance of 21 feet 0 inches.
- Substitute the plans on Page 2 of Appendix A of D.97-03-044 with the revised plans on Exhibit B, Sheet 2A of the Petition for Modification.
- Substitute the plans on Page 3 of Appendix A of D.97-03-044 with the revised plans on Exhibit B, Sheet 3 of the Petition for Modification.

Ordering Paragraph 3 stated that during the period of construction a clearance of not less than 21 feet 6 inches above top of rail shall be authorized. The 21-foot 6-inch clearance was based on the SPT standards at the time County originally filed A.97-02-007. The most recent UP book of guidelines and recent applications filed for UP grade separations specify a construction period vertical clearance of 21 feet 0 inches. County also states that a 21-foot 0-inch reduced clearance authority would result in significant cost savings and improved geometric design.

County further stated that the proposed plan and elevation of the bridge structure span lengths and widths now differ from the plan originally attached to A.97-02-007. Consequently, County attached to the Petition for Modification a revised site map (Exhibit B, Sheet 2A-Revised) and a revised General Plan and Elevation (Exhibit B, Sheet 3-Revised). As a result of recent preliminary engineering efforts and modifications of street and ramp connections, the three-span bridge length has been reduced and other geometrics now are shown in

better detail. These modifications will result in better project economics. The Commission staff is in agreement with County's proposal.

County is the lead agency for this project under the California Environmental Quality Act of 1970 (CEQA), as amended in 1982, as stated in Public Resources Code Section 21000 et. seq. The application states that this project is statutorily exempt from CEQA under Public Resources Code Section 21080.13. That section exempts from CEQA "Any railroad grade separation project which eliminates an existing grade crossing or which reconstructs an existing grade separation." This project will eliminate the existing Seventh Standard Road at-grade Crossing B-305.9.

The Commission is a responsible agency for this project under CEQA and has reviewed and considered the lead agency's exemption determination. The Commission's Consumer Protection and Safety Division – Rail Crossings Engineering Section staff has inspected the proposed project site, has reviewed County's request, concurs with the proposed modifications, and recommends that the Petition for Modification be granted.

We believe County reasonably concluded that the proposed grade-separation project qualified for CEQA exemption under Public Resources Code Section 21080.13. Accordingly, we adopt the finding of exemption for purposes of our project approval.

Staff recommends that because the new crossing shall be grade-separated, no additional protection at the crossing is necessary.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Public Utilities Code Section 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

## **Findings of Fact**

1. Petition for Modification of D.97-03-044 was published in the Commission's Daily Calendar on March 13, 2002. No protests have been received. A public hearing is not necessary.

2. County, in cooperation with District, was granted authority, under Public Utilities Code Sections 1201-1205, by D.97-03-044, dated March 18, 1997, to perform the following across UP's Fresno-Bakersfield Main Line tracks, formerly owned by SPT, in Kern County:

- To construct Seventh Standard Road Overhead at separated grades as indicated on the Preliminary Plan of Appendix A of D.97-03-044.
- To comply with General Order (GO) 26-D, except that during the period of construction a clearance of not less than 21 feet 6 inches above top of rail shall be authorized and UP shall be authorized to operate with such reduced overhead clearance provided that instructions are issued by the railroad and filed with the Commission's former Rail Safety and Carriers Division (currently Consumer Protection and Safety Division) forbidding employees to ride on tops of cars beneath the structure.
- Upon completion of Seventh Standard Road Overhead and its opening to vehicular traffic, the existing Seventh Standard Road at-grade Crossing B-305.9 shall be closed and physically removed.

3. The most recent UP book of guidelines and recent applications filed for UP grade separations call for a construction period vertical clearance of 21 feet 0 inches. Such reduced clearance authority would result in significant cost savings and improved geometric design.

4. The proposed plan and elevation of the bridge structure span lengths and widths now differ from the plan originally attached to A.97-02-007. As a result of recent preliminary engineering efforts and modifications of street and ramp

connections, the three-span bridge length has been reduced and other geometrics now are shown in better detail. These modifications will result in better project economics.

### **Conclusions of Law**

1. We believe County reasonably concluded, pursuant to Public Resources Code Section 21080.13, that the project is statutorily exempt from CEQA and, accordingly, we adopt the finding of exemption for purposes of our project approval.

2. County's request to modify D.97-03-044 should be granted as set forth in the following order.

**IT IS ORDERED** that Decision (D.) 97-03-044 shall be modified as follows:

1. County of Kern (County), in cooperation with the Greater Bakersfield Separation of Grade District, is authorized to construct Seventh Standard Road Overhead at separated grades over the tracks of Union Pacific Railroad Company's (UP) Fresno-Bakersfield Main Line, formerly owned by Southern Pacific Transportation Company (SPT), identified as Crossing B-305.9-A, in Kern County, at the location and substantially as shown by the plans attached to the Petition for Modification and as more fully described in the Appendix to this order.

2. The authorization in Ordering Paragraph 1 of D.97-03-044 to construct Seventh Standard Road Overhead at separated grades over the tracks of UP's Fresno-Bakersfield Main Line, formerly owned by SPT, in Kern County, at the location and substantially as shown by plans attached to Application (A.) 97-02-007 and Pages 2 and 3 of Appendix A of D.97-03-044, is revoked.

3. Clearances shall be in accordance with General Order 26-D; except that during the period of construction a clearance of not less than 21 feet 0 inches above top of rail shall be authorized and UP shall be authorized to operate with such reduced overhead clearance provided that instructions are issued by the railroad and filed with the Commission's Consumer Protection and Safety Division forbidding employees to ride on tops of cars beneath the structure.

4. The authorization in Ordering Paragraph 3 of D.97-03-044 to authorize during the period of construction a clearance of not less than 21 feet 6 inches above top of rail and to authorized UP to operate with such reduced overhead clearance provided that instructions are issued by the railroad and filed with the Commission's former Rail Safety and Carriers Division (currently Consumer Protection and Safety Division) forbidding employees to ride on tops of cars beneath the structure, is revoked.

5. Within 30 days after completion of the work under this order, County shall notify the Commission's Consumer Protection and Safety Division in writing that the authorized work has been completed.

6. This authorization shall expire if not exercised within two years from the effective date of this order or if the above conditions are not complied with. Authorization may be revoked or modified if public convenience, necessity or safety so require.

7. In all other respects, D.97-03-044 shall remain in full force and effect.

8. The Petition for Modification is granted as set forth above.

9. A.97-02-007 is closed.

This order becomes effective 30 days from today.

Dated August 22, 2002, at San Francisco, California.

LORETTA M. LYNCH  
President  
HENRY M. DUQUE  
CARL. W. WOOD  
GEOFFREY F. BROWN  
MICHAEL R. PEEVEY  
Commissioners

# APPENDIX PLANS





